

1 **AKERMAN LLP**
2 Kanika D. Corley (State Bar No. 223607)
3 *kanika.corley@akerman.com*
4 601 West Fifth Street, Suite 300
5 Los Angeles, CA 90071
6 Telephone: (213) 688-9500
7 Facsimile: (213) 627-63422

8 **THE NEW YORK TIMES COMPANY**
9 Al-Amyn Sumar (*admitted pro hac vice*)
10 *al-amyn.sumar@nytimes.com*
11 620 8th Avenue
12 New York, NY 10018
13 Telephone: (202) 862-7705
14 Facsimile: (212) 556-4634

15 Attorneys for Defendant
16 THE NEW YORK TIMES COMPANY

17 **UNITED STATES DISTRICT COURT**

18 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

19 TARA READE,

20 Plaintiff,

21 v.

22 THE NEW YORK TIMES COMPANY,

23 Defendant.

24 CASE NO. 2:22-CV-00543-WBS-KJN

25 **REPLY TO NON-OPPOSITION TO
26 MOTION FOR ATTORNEYS' FEES AND
27 COSTS**

28 Date: March 20, 2023
Time: 1:30 pm
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33 **2:22-CV-00543-WBS-KJN**

34 **DEFENDANT THE NEW YORK TIMES COMPANY'S REPLY TO NON-OPPOSITION TO MOTION FOR
35 ATTORNEYS' FEES AND COSTS**

I. INTRODUCTION

On December 13, 2022, Defendant The New York Times Company (“The Times”) timely moved for an award of attorney’s fees and costs under California’s anti-SLAPP statute, C.C.P. § 425.16(c)(1). Under the Local Rules of this Court, Plaintiff Tara Reade’s opposition was due on December 28, 2022. *See* E.D. Local Rule 78-230(c) (any opposition “shall be filed and served no later than fourteen (14) days after the motion was filed”). Plaintiff has filed no opposition, and The Times’s motion should therefore granted on the basis of consent as well as the merits set forth in our moving memorandum of law.

II. ANALYSIS

Two consequences flow from Plaintiff’s failure to file an opposition. First, Plaintiff cannot appear and be heard at any hearing on The Times’s motion for fees. Under the Local Rules of this Court, “[n]o party will be entitled to be heard in opposition to a motion at oral arguments if opposition to the motion has not been timely filed by that party.” E.D. Local Rule 78-230(c).

Second, a “failure to file a timely opposition may also be construed by the Court as a non-opposition to the motion.” E.D. Local Rule 78-230(c). Courts in the Ninth Circuit have construed the failure to file an opposition to a motion for attorneys’ fees as a consent to the motion. *See Marcus v ABC Signature Studios, Inc.*, No. 17-cv-00148-RSWL-AJWx, 2017 WL 5592470, at *6 (C.D. Cal. Nov. 20, 2017) (granting motion for fees because of failure to oppose); *Minow v Lexus*, No. CV 06-7496-CAS (SHx), 2008 WL 11338145, at *1 (C.D. Cal. Aug. 15, 2008) (same). Plaintiff had proper notice of the motion and ample opportunity to oppose it in a timely fashion or seek additional time for filing. She did neither, and granting the motion on consent is appropriate under those circumstances.

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III. CONCLUSION

For the above reasons and those stated in our moving memorandum of law, The Times respectfully requests that the Court order Plaintiff to pay \$70,645 in attorneys' fees, \$850.09 in costs, and any additional fees and costs incurred in connection with the filing of this motion.

DATED: January 6, 2023

AKERMAN LLP

By: /s/ Kanika D. Corley

Kanika D. Corley

Al-Amyn Sumar

Attorneys for Defendant

THE NEW YORK TIMES COMPANY

AKERMAN LLP

601 WEST FIFTH STREET, SUITE 300
LOS ANGELES, CALIFORNIA 90071
TEL.: (213) 688-9500 - FAX: (213) 627-6342